IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.2911 OF 1998

Board of Trustees of Port of Mumbai, a Body Corporate constituted under the provisions of the Major Port Trusts Act, 1963, as amended by the Major Port Trusts, (Amendment) Act, 1974, having its principal place of business at 'Vijay Deep', Shoorji Vallabhdas Marg, Mumbai 400 038. ...Plaintiffs

Versus

M/s.K.B.Trading Company a firm carrying on business at Agarwal Compound Opposite Patel Roadways, Thane-Bhiwandi Road, Near Purna Police Station, Bhiwandi, District Thane. ...Defendants

Mrs V.S.Bhalekar i/by M/s.Mulla & Mulla for the Plaintiffs.

CORAM : ABHAY S.OKA, J.
DATED : JULY 31, 2007.

ORAL JUDGMENT:

1. Heard counsel for the Plaintiffs. The learned counsel for the Plaintiffs has tendered on record a compilation of original documents which are referred to and relied upon on the plaint. The said compilation of documents is marked "Y" (collectively) for identification. I have perused the averments made in the plaint and the said original documents. There is no reason why the averments made in the plaint should not be accepted as true and correct. This is a fit case for passing a decree by invoking sub-rule 2 of Rule 5 of

Order VIII of the Code of Civil Procedure, 1908. The further interest is claimed at the rate of 18 per cent per annum though there is no agreement between the parties as regards payment of interest. Hence, considering the facts and circumstances of the case, further interest will have to be awarded at the rate of 6 per cent per annum. Hence, there will be a decree in terms of prayer clause (a) subject to modification that interest payable will be at the rate of 6 per per annum on the sum of Rs.01,60,664.40/-. The Plaintiffs will be entitled to refund of court fees as per the rules. Certified copy is expedited.

JUDGE